

### **REMARKS**

Claims 1-12 were examined and reported in the Office Action. Claims 1-12 are rejected. Claims 1, 8, 10 and 11 are amended. Claims 1-12 remain.

Applicants request reconsideration of the application in view of the following remarks.

#### **I. In the Drawings**

Figures 1A and 1B are objected to because only that which is old is illustrated. Enclosed is a replacement sheet including both figures showing the addition of the legend—(Prior Art)--. Approval is respectfully requested.

#### **II. Claims Rejected Under 35 U.S.C. §112, second paragraph**

It is asserted in the Office Action that claims 1-12 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claims 1 and 11 to overcome the 35 U.S.C. §112, second paragraph rejections.

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph rejections for claims 1-12 are respectfully requested.

#### **III. Claims Rejected Under 35 U.S.C. §103(a)**

It is asserted in the Office Action that claims 1-12 are rejected under 35 U.S.C. §103(a) as being unpatentable over Applicant's admitted prior art Figs. 1A and 1B in view of U.S. Patent No. 6,108,034 issued to Kim ("Kim"). Applicant respectfully traverses the foregoing rejection for the following reasons.

According to MPEP §2142 "[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Further, according to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (*In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." "All words in a claim must be considered in judging the patentability of that claim against the prior art." (*In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's amended claim 1 contains the limitations of "[a] real time remote monitoring system using an ADSL modem in a reverse direction, comprising: monitoring means for monitoring an object facility to be monitored; remotely monitored data processing means for monitoring motions according to each channel with respect to the monitored data obtained by the monitoring means so as to be compression-encoded and transmitted in a bit stream, and generating detection signals with respect to the monitored data that have been detected; first ADSL modulating/demodulating means installed in a reverse direction for modulating the data inputted from the remotely monitored data processing means so as to be upwardly transmitted to a network in a transmission velocity higher than that of a downward channel, and demodulating the data transferred from the network in a transmission velocity lower than that of a upward channel so as to be transferred to the remotely monitored data processing means; second ADSL modulating/demodulating means installed in a reverse direction for demodulating the data transferred from the first ADSL modulating/demodulating means in a transmission velocity higher than that of the downward channel so as to be transferred to a receiving party, and modulating the data transferred from the receiving party so as to downwardly transferred to the first ADSL modulating/demodulating means in a transmission velocity lower than that of the upward channel." (Emphasis added).

Applicant's amended claim 11 contains the limitations of "[a] real time remote monitoring method using an ADSL modem in a reverse direction, comprising the steps of: a) obtaining monitored data by monitoring an object facility to be monitored; b) detecting motions according to each channel with respect to the monitored data that have been obtained, compression-encoding the monitored data in a bit stream so as to be transmitted, and generating detection signals with respect to each of the monitored data that has been detected; and c) modulating the monitored data and the detection signals by using an ADSL modem installed in a reverse direction in a transmission velocity higher than that of a downward channel so as to be transmitted to a network, and demodulating the data transferred from the network in a transmission velocity lower than that of an upward channel so as to perform a remote monitoring." (Emphasis added).

It is asserted in the Office Action that it is obvious to one of ordinary skill in the art to transmit the upward transmission signal from the ADSL modem 12 having a higher transmission capacity than the downward transmission signal transmitted from the ADSL modem 13 in the prior art Fig. 1A. The prior art references, however, fail to teach a real time remote monitoring system using ADSL modem in reverse direction. In Applicant's claimed invention, the upward channel has a larger capacity than that of the downward channel in order to transmit video data having a large volume in real time. Applicant's admitted prior art and Kim do not disclose, teach or suggest a monitoring system in which the upward channel has a higher capacity than that of the downward channel. In particular, Kim discloses that "ADSL is ... used for providing a video signal through a conventional phone line in a video-on-demand service which uses asymmetry because the downstream channel transferred from a video server to a subscriber has a much larger bandwidth than the upstream channel transferred from the subscriber to the video server." (Kim, column 2, lines 40-46).

Moreover, by viewing the disclosures of Applicant's admitted prior art and Kim, one can not jump to the conclusion of obviousness without impermissible hindsight. According to MPEP 2142, [t]o reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown

and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention 'as a whole' would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the 'differences,' conduct the search and evaluate the 'subject matter as a whole' of the invention. The tendency to resort to 'hindsight' based upon applicant's disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art."

Even if the teachings of Applicant's admitted prior art were combined with that of Kim, the resulting invention would still not contain all of the limitations of Applicant's amended claims 1 and 11. Since neither Applicant's admitted prior art, Kim, nor the combination of the two disclose, teach or suggest all the limitations contained in Applicant's claims 1 and 11, as listed above, there would not be any motivation to arrive at Applicant's claimed invention. Thus, Applicant's claims 1 and 11 are not obvious over Applicant's admitted prior art in view of Kim since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that directly or indirectly depend from claim 1, namely claims 2 -10, are also not obvious over Applicant's admitted prior art in view of Kim for the same reason.

Accordingly, withdrawal of the 35 U.S.C. §103 (a) rejections for claims 1-12 are respectfully requested.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely 1-12, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

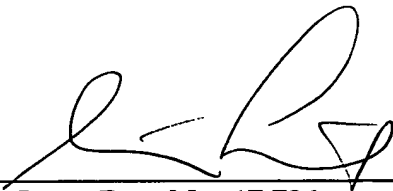
If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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LLP

Dated: June 14, 2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on June 14, 2004.

  
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